

HUMAN SERVICES DEPARTMENT[441]

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)"b."

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 514I.5(8) and 2008 Iowa Acts, chapter 1188, section 14, the Department of Human Services proposes to amend Chapter 86, "Healthy and Well Kids in Iowa (HAWK-I) Program," Iowa Administrative Code.

The proposed amendments would:

- Increase the HAWK-I income limits from 200 percent of the federal poverty level to 300 percent of the federal poverty level (\$5,513 per month for a family of four) beginning July 1, 2009.
- Implement increased monthly cost sharing for children with gross family income between 250 and 300 percent of the federal poverty level (\$20 per month per child up to a maximum of \$40 per family).

The eligibility change was enacted in 2008 Iowa Acts, chapter 1188, as the "HAWK-I Expansion Program." This legislation also gives the HAWK-I Board the authority to set cost-sharing amounts for children with family income between 200 and 300 percent of the federal poverty level.

These amendments do not provide for waivers in specified situations because expanded coverage is a benefit to the families affected. Requests for the waiver of any rule may be submitted under the Department's general rule on exceptions at 441—1.8(17A,217).

Any interested person may make written comments on the proposed amendments on or before April 1, 2009. Comments should be directed to Mary Ellen Imlau, Bureau of Policy Analysis and Appeals, Department of Human Services, Hoover State Office Building, 1305 East Walnut Street, Des Moines, Iowa 50319-0114. Comments may be sent by fax to (515)281-4980 or by E-mail to policyanalysis@dhs.state.ia.us.

These amendments are intended to implement Iowa Code chapter 514I.

The following amendments are proposed.

ITEM 1. Adopt the following **new** definitions in rule **441—86.1(514I)**:

"Earned income" means the earned income of all parents, spouses, and children under the age of 19 who are not students who are living together in accordance with subrule 86.2(3). Income shall be countable earned income when a person produces it as a result of the performance of services. "Earned income" includes:

1. All income in the form of a salary, wages, tips, bonuses, and commissions earned as an employee, and
2. The net profit from self-employment determined by comparing gross income produced from self-employment with the allowable costs of producing the income. The allowable costs of producing self-employment income shall be determined by the costs allowed for income tax purposes. Additionally, the cost of depreciation of capital assets identified for income tax purposes shall be allowed as a cost of doing business for self-employed persons. Losses from a self-employment enterprise may not be used to offset income from any other source.

"Gross countable income" means gross income minus exemptions permitted by paragraph 86.2(2)"b."

"Gross income" means a combination of the following:

1. Earned income,
2. Unearned income, and
3. Recurring lump-sum income prorated over the time the income is intended to cover.

“Recurring lump-sum income” means earned and unearned lump-sum income that is received on a regular basis. These payments may include, but are not limited to:

1. Annual bonuses.
2. Lottery winnings that are paid out annually.

“Self-employed” means that a person satisfies any of the following conditions:

1. The person is not required to report to the office regularly except for specific purposes such as sales training meetings, administrative meetings, or evaluation sessions; or
2. The person establishes the person’s own working hours, territory, and methods of work; or
3. The person files quarterly reports of earnings, withholding payments, and FICA payments to the Internal Revenue Service.

“Unearned income” means cash income of all parents, spouses, and children under the age of 19 who are living together in accordance with subrule 86.2(3) that is not gained by labor or service. The available unearned income shall be the amount remaining after the withholding of taxes (Federal Insurance Contribution Act, state and federal income taxes). Examples of unearned income include, but are not limited to:

1. Social security benefits, meaning the amount of the entitlement before withholding of a Medicare premium.
2. Child support and alimony payments received for a member of the family.
3. Unemployment compensation.
4. Veterans benefits.

ITEM 2. Amend subrule 86.2(2), introductory paragraph, as follows:

86.2(2) Income. ~~Countable income shall not exceed 200 percent of the federal poverty level for a family of the same size when determining initial and ongoing eligibility for the program.~~

ITEM 3. Rescind paragraph **86.2(2)“a”** and adopt the following **new** paragraph in lieu thereof:

a. *Gross countable income.* In determining initial and ongoing eligibility for the HAWK-I program, gross countable income shall not exceed 300 percent of the federal poverty level for a family of the same size.

ITEM 4. Rescind and reserve subrule **86.8(1)**.

ITEM 5. Amend subrule 86.8(2) as follows:

86.8(2) Premium amount. ~~The premium amount shall be \$10 per month per child up to a maximum of \$20 per month per family.~~ Premiums under the HAWK-I program shall be assessed as follows:

a. No premium is charged if:

(1) The eligible child is an American Indian or Alaskan Native;

(2) The family’s gross countable income is less than 150 percent of the federal poverty level for a family of the same size; or

(3) A combination of the family’s unearned income plus 80 percent of the gross earned income after exclusions permitted by paragraph 86.2(2) “b” is less than 150 percent of the federal poverty level for a family of the same size.

b. If the family’s gross countable income is equal to or exceeds 250 percent of the federal poverty level for a family of the same size, the premium is \$20 per child per month with a \$40 monthly maximum per family.

c. In all other cases, the premium is \$10 per child per month with a \$20 monthly maximum per family.